

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF SOUTH CAROLINA
ANDERSON DIVISION

Korell Robert Floyd Battle, #292294,)	
)	
Plaintiff,)	Civil Action No. 8:05-1697-GRA-BHH
)	
vs.)	<u>REPORT OF MAGISTRATE JUDGE</u>
)	
Jon E. Ozmint, Director of South)	
Carolina Department of Corrections;)	
Colie Rushton, Warden of MCCI;)	
and Robert Ward,)	
)	
Defendants.)	
)	

The plaintiff brought this action seeking relief pursuant to Title 42, United States Code, Section 1983. On August 18, 2005, the Clerk mailed to the plaintiff a copy of the order of this court giving the defendants an extension of time to file an answer in this case. The order was mailed to the plaintiff's last known address (McCormick Correctional Institution, 386 Redemption Way, McCormick, SC 29899). On August 31, 2005, an order denying the plaintiff's motion for appointment of counsel was mailed by the Clerk to the plaintiff at the above address. Both of these envelopes were returned to the court marked "no longer here." A search of the South Carolina Department of Corrections database indicates the plaintiff is no longer incarcerated within the Department of Corrections.

The record reveals that the plaintiff was advised by order dated June 28, 2005, of his responsibility to notify the court *in writing* if his address changed. The plaintiff has failed to keep the court advised of his whereabouts.

On September 22, 2005, the defendants moved to dismiss this case for lack of prosecution in light of the plaintiff's failure to comply with the court's order of June 28, 2005.

Based on the foregoing, it appears the plaintiff no longer wishes to pursue this action. Accordingly, it is recommended that the defendants' motion be granted and this case be dismissed for lack of prosecution.

A handwritten signature in cursive script, reading "Bruce H. Hendricks", written in black ink.

BRUCE H. HENDRICKS
UNITED STATES MAGISTRATE JUDGE

September 22, 2005

Greenville, South Carolina